

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Robert J. Wright	Examiner:	Jason P. Macdonald
Serial No.	10/766,656	Group Art Unit:	3714
Filed:	January 27, 2004	Docket No.	IGA-0180-US
Title:	SYSTEM AND METHOD OF PROVIDING A GUARANTEE IN A LOTTERY		
Customer No.:	65449		

CERTIFICATE OF TRANSMISSION

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Name: Samuel K. Simpson

APPELLANT'S BRIEF

MAIL STOP: APPEAL BRIEF - PATENTS

Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

Sir:

This brief is in furtherance of the Notice of Appeal in this case, timely filed on January 24, 2008. Applicant hereby appeals to the Board from the decision of the Examiner in the Final Office Action dated March 26, 2008 that rejected the pending claims 1-75. Accordingly, claims 1-75 are now on appeal. This Brief is accompanied by an

electronic funds transfer in the amount of \$255.00 under 37 C.F.R. § 41.20(b)(2) for the Appeal Brief.

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is Integrated Group Assets, Inc., the assignee of record.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

The status of claims of all the claims in the application, claims 1-75, is set forth in Appendix A of this brief. Claims 1-9, 12-21, 24-26, 53-59, 62-64, and 67-75 are rejected under 35 U.S.C. § 102(e), claims 35, 36, 40-44, 65, and 66 are rejected under 35 U.S.C. § 103(a), claims 10, 11, 22, 23, 27-34, 37-39, 60, and 61 are rejected under 35 U.S.C. § 103(a), and claims 45-52 are rejected under 35 U.S.C. § 103(a) in the Final Office Action dated March 26, 2008.

IV. STATUS OF AMENDMENTS

An amendment has been filed on January 25, 2008 after the filing of the Notice of Appeal on January 24, 2008. The amendment was filed to cancel claims 2, 26-34, 72, and 73. Appellant requested that the amendment be entered so that the substantive arguments could be addressed during Appeal.

V. SUMMARY OF CLAIMED SUBJECT MATTER

In one aspect, a process assumes risk for a lottery. See Specification, para. [0037] (“[a] jackpot guarantor 202 assumes the risk that would normally be assumed by the lottery.”). The Specification explains that in a pari-mutuel model, a lottery operator may fund a jackpot with tickets sales. See Specification, para. [0030] (“[t]he lottery operator then places the payment into the jackpot 104.”) The Specification also explains that “... if the payments in the jackpot 104 add up as being less than the advertised minimum and

there is a winner of the jackpot, the lottery operator has [sic] provides [sic] the difference between the advertised minimum and the sum of the payments.” See Specification, para. [0031]. As a result, the lottery has a certain risk. This process assumes that risk for the lottery. See Specification, para. [0042] (“FIG. 3 illustrates a process in which the jackpot guarantor 202 provides a guarantee for the pre-determined jackpot 204 to the lottery operator 102.”). As a result of the jackpot guarantor assuming the risk for the lottery, the lottery can then advertise a large prize rather than a prize with a small minimum to generate more interest from potential lottery ticket purchasers. See Specification, para. [0037] (“In one embodiment, the pre-determined jackpot 204 is a very large prize that will invoked ticket holders 108 that would not normally purchase a lottery ticket to purchase a lottery ticket. The Lottery operator 102 can advertise with the pre-determined jackpot 204 in order to invoke higher ticket sales than would otherwise be achieved.”).

The process provides a guarantee of payment of a prize in a lottery. See Specification, para. [0043] (“... a guarantee of payment of a prize in a lottery is provided.”); FIG. 3. An example occurrence of utilization of the guarantee is when a lottery has advertised a prize amount that is higher than the resulting lottery ticket sales, and a jackpot guarantor has assumed the risk of such an occurrence for that difference. See Specification, para. [0037] (“[i]f the ticket sales are less than the pre-determined jackpot 204, the jackpot guarantor 202 assumes the risk for paying the difference between the ticket sales and the pre-determined jackpot 204.”). Further, the guarantee is in exchange for a stipulation of a percentage of ticket sales revenue in the lottery. See Specification, para. [0040] (“[i]n one embodiment, the stipulation includes an obligation by the lottery operator 102 to provide a percentage of revenue generated from future ticket sales in exchange for the guarantee.”). In addition, the providing the guarantee occurs prior to the ticket sales revenue in the lottery. See Specification, para. [0007] (“the providing the guarantee occurs prior to the ticket sales in the lottery.”). Finally, the process receives the percentage of the ticket sales in the lottery. See Specification, para. [0043] (“... a percentage of tickets sales is received.”); FIG. 3.

In another aspect, a lottery risk assumption system is utilized to assume risk for a lottery. See Specification, para. [0044] (“... the probabilistic software configuration 400

includes software for establishing a guarantee for a pre-determined lottery prize 402.”); FIG. 4. The lottery risk assumption system includes a prize guarantee system that provides a guarantee of payment of a prize in a lottery. See Specification, para. [0044] (“[a] guarantee transmission module 404 transmits the guarantee through a network 408.”); FIG. 4. Further, the prize guarantee system provides the guarantee in exchange for a stipulation for a percentage of ticket sales revenue in the lottery. See FIG. 4; Specification, para. [0044] (“[t]he guarantee transmission module 404 transmits the guarantee in exchange for a stipulation.”), para. [0040] (“[i]n one embodiment, the stipulation includes an obligation by the lottery operator 102 to provide a percentage of revenue generated from future ticket sales in exchange for the guarantee.”). In addition, the lottery risk assumption system provides the guarantee prior to the ticket sales in the lottery. See Specification, para. [0008] (“[i]n addition, the prize guarantee system provides the guarantee prior to the ticket sales in the lottery.”). Finally, the lottery risk assumption system has a receiving system that receives the percentage of the ticket sales revenue in the lottery. See Specification, para. [0008] (“... a receiving system receive the percentage of the ticket sales revenue in the lottery.”)

In yet another aspect, a lottery system is provided. See Specification, para. [0044] (“... the probabilistic software configuration 400 includes software for establishing a guarantee for a pre-determined lottery prize 402.”); FIG. 4. The lottery system includes a guarantee transmission module that transmits a guarantee through a network. See FIG. 4; Specification, para. [0044] (“[a] guarantee transmission module 404 transmits the guarantee through a network 408.”). Further, the guarantee guarantees the payment of a predetermined lottery prize. See Specification, para. [0044] (“... the probabilistic software configuration 400 includes software for establishing a guarantee for a pre-determined lottery prize 402.”). The lottery system also has a guarantee reception module that receives the guarantee through the network. See Specification, para. [0045] (“[a] guarantee reception module 410 receives the guarantee from the network 408.”) Finally, the lottery system has a lottery creation module that establishes a lottery in which players can

purchase tickets to win the predetermined lottery prize upon receipt of the guarantee from the guarantee reception module. See FIG. 4 (Lottery Creation Module 414); Specification, para. [0048] (“[t]he lottery creation module 520 can be used to set up a lottery”). As can be seen from FIG. 4, the lottery creation module 414 receives the guarantee from the guarantee reception module 410 and only then establishes the lottery. Accordingly, the lottery game in this lottery system is **not established for game play until the guarantee is received.**

In another aspect, a game of chance guarantee system is provided. See Specification, para. [0057] (“FIG. 9 illustrates a probabilistic hardware and software configuration 900 that can be used with a game of chance.”). The game of chance guarantee system has a guarantee transmission module that transmits a guarantee through a network. See Specification, para. [0057] (“[t]he guarantee transmission module 506 sends a guarantee through a network 908.”). Further, the guarantee guarantees the payment of a predetermined prize in a game of chance. See Specification, para. [0061] (“[b]y receiving the guarantee from the game of chance guarantor 902, the gaming machine 910 can advertise a much larger prize than would ordinarily be advertised.”). A prize can be won by winning the game of chance. See Specification, para. [0057] (“... the game of chance can be any game in which a wager is made in order to win a prize.”). The game of chance is played according to a plurality of rules. See Specification, para. [0057] (“[f]or example, Poker, Blackjack, and Keno are all games of chance.”). The guarantee is provided in exchange for a stipulation for a percentage of the wagers. See Specification, para. [0061] (“[t]he casino would only be paying a percentage of the wagers to the game of chance guarantor according to the stipulation that was provided in exchange for the guarantee.”). Further, the game of chance guarantee system has a guarantee reception module that receives the guarantee through the network. See Specification, para. [0058] (“[t]he guarantee reception module 410 can be used to receive the guarantee that is sent by the guarantee transmission module 504 through the network 908 from the game of chance guarantor 902.”). Finally, the game of chance guarantee system has a game of chance

creation module that establishes the game of chance upon receipt of the guarantee from the guarantee reception module, wherein players can make wagers in the game of chance. See FIG. 9 (Guarantee Creation Module 922); Specification, para. [0011] (“[a] game of chance creation module establishes the game of chance upon receipt of the guarantee from the guarantee reception module”).

In yet another aspect, a process guarantees a probabilistic lottery system. See Specification, para. [0037] (“[a] jackpot guarantor 202 assumes the risk that would normally be assumed by the lottery.”). The process provides a guarantee for a pre-determined prize. See Specification, para. [0042] (“FIG. 3 illustrates a process in which the jackpot guarantor 202 provides a guarantee for the pre-determined jackpot 204 to the lottery operator 102.”). The predetermined prize can be advertised by a lottery operator. See Specification, para. [0037] (“In one embodiment, the pre-determined jackpot 204 is a very large prize that will invoked ticket holders 108 that would not normally purchase a lottery ticket to purchase a lottery ticket. The Lottery operator 102 can advertise with the pre-determined jackpot 204 in order to invoke higher ticket sales than would otherwise be achieved.”). Further, the pre-determined prize is increased by a percentage of each ticket sale after each ticket sale. (“... the pre-determined prize is increased by a percentage of each ticket sale after each ticket sale.”). Finally, the process receives a stipulation for a percentage of ticket sales in exchange for the providing the guarantee. See Specification, para. [0040] (“[i]n one embodiment, the stipulation includes an obligation by the lottery operator 102 to provide a percentage of revenue generated from future ticket sales in exchange for the guarantee.”).

In another aspect, a process is provided. The process provides a guarantee of payment of a prize in a lottery game. See Specification, para. [0043] (“... a guarantee of payment of a prize in a lottery is provided.”); FIG. 3. The guarantee is in exchange for a stipulation. See Specification, para. [0040] (“[i]n one embodiment, the jackpot guarantor 202 provides the guarantee in exchange for a stipulation.”). The providing the guarantee occurs such that the lottery game is established, upon receipt of the guarantee, such that players can purchase tickets to win the prize. See Specification, para. [0010] (“... a lottery

creation module establishes a lottery in which players can purchase tickets to win the predetermined lottery prize upon receipt of the guarantee from the guarantee reception module.”). Finally, the process receives the stipulation. See Specification, para. [0044] (“[a] stipulation reception module 406 receives the stipulation through the network 408.”).

In yet another aspect, a system is provided. The system includes a prize guarantee system that provides a guarantee of payment of a prize in a lottery game. See Specification, para. [0043] (“... a guarantee of payment of a prize in a lottery is provided.”); FIG. 3. The guarantee is in exchange for a stipulation. See Specification, para. [0040] (“[i]n one embodiment, the jackpot guarantor 202 provides the guarantee in exchange for a stipulation.”). The providing the guarantee occurs such that the lottery game is established, upon receipt of the guarantee, such that players can purchase tickets to win the prize. See Specification, para. [0010] (“... a lottery creation module establishes a lottery in which players can purchase tickets to win the predetermined lottery prize upon receipt of the guarantee from the guarantee reception module.”). Finally, the system includes a receiving system that receives the stipulation. See Specification, para. [0044] (“[a] stipulation reception module 406 receives the stipulation through the network 408.”).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-9, 12-21, 24-26, 53-59, 62-64, and 67-75 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,840,857 to Ghela (“Ghela”), claims 35, 36, 40-44, 65, and 66 are rejected under 35 U.S.C. § 103(a) as being obvious in view of Ghela, claims 10, 11, 22, 23, 27-34, 37-39, 60, and 61 are rejected under 35 U.S.C. § 103(a) as being obvious in view of Ghela and in further view of U.S. Patent No. 6,869,363 to Walker et al. (“Walker”), and claims 45-52 are rejected under 35 U.S.C. § 103(a) as being obvious over Walker in view of Ghela in the Final Office Action dated March 26, 2008.

VII. ARGUMENT**REJECTION OF CLAIMS 1-9, 12-21, 24-26, 53-59, 62-64, and 67-75 UNDER 35 U.S.C. § 102(e)**

The Final Office Action rejected claims 1-9, 12-21, 24-26, 53-59, 62-64, and 67-75 under 35 U.S.C. § 102(e) as being anticipated by Ghela. Appellant shall address (A) claims 1-5, 7, 12-17, 19-20, 24-26, 54-56, 58, and 62-63 as a group; (B) claims 6, 18, and 57 as a group; (C) claims 8 and 53 as a group; (D) claim 9, 21, and 59 as a group; and (E) claims 64 and 67-75 as a group.

(A) Claims 1-7, 12-21, 24-26, 53-59, and 62-63***Assumption of Risk for a Lottery***

With respect to independent claim 1, an assumption of risk for a lottery is recited. This recitation occurs in the preamble portion of the claims, but gives “life, meaning, and vitality to the claim” because it **identifies the risk** as being **the risk of the lottery** for which the guarantee is being provided and, therefore, this recitation should be considered part of the claims. See MPEP § 2111.02 (citing *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999)).

The Final Office Action states that “Ghela discloses this guarantee is insurance which is assuming some form of risk, as all insurance does ...” See Office Action, page 2. The operative language “some form or risk” utilized by the Final Office Action highlights the inapplicability of Ghela to these claims. As discussed above in Section V, the risk that is being assumed is not just “some form of risk,” but rather is a **risk of a particular entity, which is the lottery**: “... if the payments in the jackpot 104 add up as being less than the advertised minimum and there is a winner of the jackpot, the lottery operator has [sic] provides [sic] the difference between the advertised minimum and the sum of the payments.” See Specification, para. [0031]. Ghela even addresses an advertised jackpot by stating that “[i]t is conventional, for example, to select an arbitrary, fixed jackpot, perhaps five million dollars, that is large enough to attract interest in the lottery,” (See Ghela, col.

3, lines 18-20) but does not address the risk of the lottery not generating enough revenue for that prize. Rather than focusing on the risk of the lottery, Ghela instead focuses on the risk of the player. In other words, the risk addressed in Ghela is that a winning player will not be able to obtain a full prize immediately: “[i]n existing lotteries, winning participants cannot immediately collect their share of the jackpot because lottery operators offer lottery winners a choice between only two options: receiving the jackpot in partial payments spread out over time; or receiving an immediate payment in a reduced amount totaling much less than the jackpot.” See Ghela, col. 4, lines 31-37. In order to reduce this player risk, Ghela explains that “[t]he insurance purchased with an insured ticket guarantees that even if the insured ticket is a large-payout winning ticket, the purchaser is entitled to the jackpot or other large payout, as applicable, immediately, rather than being forced to accept a smaller amount up front or the full amount in installments over time.” See Ghela, col. 2, lines 36-41. As a result, Ghela does not teach assuming the risk of a lottery as recited in claim 1.

In addition to the concept of risk of a lottery, the assumption of that risk for the lottery is recited in claim 1. By assuming risk for a lottery, another entity removes that burden from the lottery, e.g., a jackpot guarantor. See Specification, para. [0042] (“FIG. 3 illustrates a process in which the jackpot guarantor 202 provides a guarantee for the pre-determined jackpot 204 to the lottery operator 102.”). Rather than assuming risk for the lottery, Ghela actually increases the risk of the lottery. In other words, Ghela is focusing on how to help the player get paid the full prize immediately. In order to do so, more pressure is placed on the Lottery. Ghela teaches that the Lottery itself provides the insurance to the player: “[t]he invention also provides an avenue for lottery operators to offer an additional service to lottery participants in return for increased revenue.” See Ghela, col. 2, lines 52-54. The Lottery then has a risk of whether a sufficient number of ticket sales and/or insurance options are purchased to pay a large full prize immediately. In other words, for the benefit of the player, Ghela teaches placing more risk on the Lottery so that the player’s risk of

not being paid a full amount is reduced. Therefore Ghela does not teach the assuming of a risk of the lottery as recited in claim 1, but actually teaches the exact opposite.

Prior To

The Final Office Action contends that Ghela teaches “the providing the guarantee occurs prior to the ticket sales revenue in the lottery” because “the ticket is marketed [sic] as guaranteed (insured) before the purchase.” See Final Office Action, page 2. Appellant respectfully submits that one of ordinary skill in the art reading Ghela would not expect that insurance is provided to the player simply by the player marking an insurance box on lottery selection sheet. A vendor would first expect the purchaser to pay for the insurance option before actually providing the insurance. Ghela even explains this process:

“After a lottery participant makes use of lottery option selection sheet 26 to select an appropriate number of playing symbols 40, and to indicate whether insurance is desired, and of what type, lottery option selection 26 may be returned to a vendor with payment in exchanged for a lottery ticket 46 (see FIG. 3). The amount of payment required may depend on the options selected.” See Ghela, col. 5, lines 37-43.

Accordingly, Ghela teaches that insurance is provided after, not before, a ticket sale.

An example of a context in which a guarantee is actually provided before ticket sales revenue is a jackpot guarantor assuming the risk of the lottery. The lottery is able to advertise a much larger jackpot than it would normally otherwise be able to advertise because the lottery knows that the jackpot guarantor is guaranteeing the difference between the future lottery ticket sales and prize payout. The lottery would like to be able to have that guarantee in place prior to ticket sales so that the lottery can provide the advertisement for the larger prize. To pay for that guarantee, the lottery gives a stipulation of a percentage of ticket sales revenue in the lottery. In other words, the jackpot guarantor provides the guarantee to the lottery prior to the lottery generating ticket sales revenue as the lottery needs that guarantee for the advertisement of the larger jackpot prize in exchange for an agreement, not actual funds at the time that the guarantee is provided, that the lottery will

pay a designated percentage of the lottery ticket sales revenue to the jackpot guarantor after such lottery ticket sales revenue has been generated. See Specification, para. [0040] (“[i]n one embodiment, the stipulation includes an obligation by the lottery operator 102 to provide a percentage of revenue generated from future ticket sales in exchange for the guarantee.”). Accordingly, the stipulation recited in the claims allows the guarantee to be provided effectively prior to the ticket sales revenue.

The Final Office Action even admits that actual funds rather than a stipulation are utilized to obtain the insurance in Ghela: “Ghela discloses guaranteeing payment of a prize in a game of chance, specifically a ticket lottery [sic] (col. 2, lines 37-42), in exchange for a percentage of tickets says [sic] (player purchasing the insured ticket) ...” See Office Action, page 2. Accordingly, the player in Ghela obtains insurance only after providing payment of actual funds. Therefore, Ghela does not teach “the providing the guarantee occurs prior to the ticket sales revenue in the lottery.”

For the reasons discussed above, Appellant submits that the rejection of claim 1 under Ghela should be withdrawn.

Claims 2-5 and 12-13

Further, claims 3-5 and 12-13 depend from independent claim 1. Accordingly, the rejections of these claims should be withdrawn for the reasons discussed with respect to independent claim 1. Claim 2 has been cancelled in the Amendment filed on ____.

Claims 14-17, 19-20, and 24-25

Independent claim 14 is allowable for the same reasons as discussed with respect to independent claim 1. Accordingly, Appellant submits that the rejection of claim 14 should be withdrawn.

Further, claims 15-17, 19-20, and 24-25 depend from independent claim 14. Therefore, Appellant submits that the rejection of claims 15-21 and 24-25 should be withdrawn.

Claims 54-56, 58, and 62-63

Independent claim 53 is allowable for the same reasons as discussed with respect to independent claim 53. Accordingly, Appellant submits that the rejection of claim 14 should be withdrawn.

Further, claims 54-56, 58, and 62-63 depend from independent claim 53. Therefore, Appellant submits that the rejection of claims 54-59 and 62-63 should be withdrawn.

(B) 6, 18, and 57

Appellant would also like to submit that claim 6 specifically recites that the guarantee is utilized to guarantee payment of the prize in the event that “tickets sales revenue is not greater in size than the payment of the prize.” With respect to claim 6, the Final Office Action states that “Ghela disclosed that the very concept of a lottery is the prize can be much larger than the revenue collected (col. 1, lines 10-15).” See Office Action, page 3. Appellant respectfully submits that the cited section of Ghela is directed to a completely different risk than that of tickets sales revenue not being greater in size than the payment of the prize. In particular, the cited section of Ghela includes the following: “[o]ne popular lottery format requires participants to risk a relatively small amount of money, often by the purchasing a lottery ticket, in exchange for the chance to win a much larger sum of money.” See Ghela, col. 1, lines 10-15. The risk of a player losing a nominal amount to win a larger prize is not the same risk as tickets sales revenue not being greater in size than the payment of the prize. These two risks are completely independent of one another. Further, Ghela does not even teach a guarantee for the cited risk. In other words, Ghela does not provide insurance for players possibly having losing tickets, but rather provides insurance to players with winning tickets to make sure that they get paid the full prize immediately rather than over a long time period or in a reduced fashion. Therefore, Ghela simply does not teach (1) the risk of tickets sales revenue not being greater in size than the payment of the prize and (2) a guarantee for that risk as recited in the claim 6. Accordingly, Appellant submits that the rejection of claim 6 should be

withdrawn. Further, the rejections of claims 18 and 57 should be withdrawn for similar reasons.

(C). Claims 8 and 53

Appellant submits that claim 8 recites that the “the providing the guarantee is effectuated to a jurisdiction” and that Ghela does not provide any such teaching. The arguments presented in the Final Office Action rely on providing insurance to a player. However, claim 8 makes clear that the guarantee is provided to a jurisdiction, not a player. The Specification explains that “[t]he lottery operator 102 can be a jurisdiction such as a state, city, town, municipality, or any division or department thereof.” See Specification, para. [0029]. Accordingly, the guarantee can be effectuated to a jurisdiction that is a lottery operator.

The Final Office Action states, without citing to any particular portion of Ghela, that “the guarantee is effectuated to a jurisdiction, that being the state or organization running the lottery ...” See Office Action, page 2. However, Ghela is solely focused on providing insurance to the player and does not address providing insurance to a jurisdiction. Therefore, Appellant submits that the rejection of claim 8 should be withdrawn. Further, the rejection of claim 53 should be withdrawn for similar reasons.

(D) Claims 9, 21, and 59

Appellant also submits that claim 9 specifically recite that the providing the guarantee assumes the risk of the lottery. Accordingly, as discussed above, Ghela does not teach, an assumption of risk of a lottery and a guarantee that assumes that risk. Therefore, Appellant submits that the rejection of claim 9 should be withdrawn. Further, the rejections of claims 21 and 59 should be withdrawn for similar reasons.

(E) Claims 64 and 68-75

Guarantee to Establish Lottery Game

Independent claim 64 recites that “the providing the guarantee occurs such that the lottery game is established, upon receipt of the guarantee, such that players can purchase

tickets to win the prize.” In order for the lottery game to even be established so that players can purchase tickets, the guarantee has to first be provided. This recitation is not part of claim 1, but the analysis of claim 64 appears to be grouped with the analysis of claim 1 in the Final Office Action. No analysis is provided in the Final Office Action of how Ghela teaches this concept. Ghela simply cannot teach this concept because a lottery game has to be established in Ghela prior to a player having the opportunity to purchase a ticket and buy insurance with that ticket. Therefore, Appellant submits that the rejection of claim 64 should be withdrawn.

Further, claims 68-70 depend from independent claim 64. Therefore, Appellant submits that the rejection of claims 68-70 should be withdrawn.

Independent claim 71 is allowable for the same reasons as discussed with respect to independent claim 64. Accordingly, Appellant submits that the rejection of claim 71 should be withdrawn.

Further, claims 72 and 73 have been cancelled.

In addition, claim 74 is allowable for the same reasons as discussed with respect to independent claim 64. Accordingly, Appellant submits that the rejection of claim 74 should be withdrawn.

Claim 75 is allowable for the same reasons as discussed with respect to independent claim 64. Accordingly, Appellant submits that the rejection of claim 75 should be withdrawn.

REJECTION OF CLAIMS 35, 36, 40-44, 65, and 66 UNDER 35 U.S.C. § 103(a)

The Final Office Action rejected claims 35, 36, 40-44, 65, and 66 under 35 U.S.C. § 103(a) as being obvious in view of Ghela. With respect to independent claim 35, the Final Office Action does not provide any analysis of how the concept of lottery being established upon the receipt of a guarantee is taught in Ghela. As discussed with respect to claim 64, Ghela cannot teach this concept because a lottery game has to be established in

Ghela prior to a player having the opportunity to purchase a ticket and buy insurance with that ticket. Therefore, Appellant submits that the rejection of claim 35 should be withdrawn. Further, claims 36 and 40-44 depend from independent claim 35. Therefore, Appellant submits that the rejection of claims 36 and 40-44 should be withdrawn.

In addition, claims 65 and 66 depend from independent claim 64. Therefore, Appellant submits that the rejection of claims 65 and 66 should be withdrawn.

REJECTION OF CLAIMS 10, 11, 22, 23, 27-34, 37-39, 60, and 61 UNDER 35 U.S.C. § 103(a)

The Final Office Action rejected claims 10, 11, 22, 23, 27-34, 37-39, 60, and 61 under 35 U.S.C. § 103(a) as being obvious in view of Ghela and in further view of Walker.

Claims 10 and 11 depend from independent claim 1. Therefore, Appellant submits that the rejection of claims 10 and 11 should be withdrawn.

Claims 22 and 23 depend from independent claim 14. Therefore, Appellant submits that the rejection of claims 22 and 23 should be withdrawn.

Claims 27-34 have been cancelled.

Claims 37-39 depend from independent claim 35. Therefore, Appellant submits that the rejection of claims 37-39 should be withdrawn.

Claims 60 and 61 depend from independent claim 53. Therefore, Appellant submits that the rejection of claims 60 and 61 should be withdrawn.

REJECTION OF CLAIMS 45-52 UNDER 35 U.S.C. § 103(a)

The Final Office Action rejected claims 45-52 under 35 U.S.C. § 103(a) as being obvious over Walker in view of Ghela. The Final Office Action states that “Walker fails to specifically disclose guaranteeing a prize but instead insuring losses, although based on publicly held rates of return insuring a loss could be thought of as guaranteeing a win.” See Office Action, pages 4-5. The Final Office Action does not refer to any specific section of Walker as a basis for this assertion. Appellant respectfully submits that Walker does not teach guaranteeing a payment of a predetermined prize.

Neither Walker nor Ghela teach “a game of chance creation module that establishes the game of chance upon receipt of the guarantee from the guarantee reception module, wherein players can make wagers in the game of chance.” The creation of the game of chance in these references is simply not dependent on receiving a guarantee. In other words, the decision of a player in Walker or Ghela to purchase or not purchase insurance has no bearing on whether the game of chance is created so that other players can play the game of chance. Therefore, Appellant submits that the rejection of claim 45 should be withdrawn.

Claims 46-52 depend from independent claim 45. Therefore, Appellant submits that the rejection of claims 46-52 should be withdrawn.

VIII. CLAIMS APPENDIX

A complete listing of the claims involved in this appeal is attached hereto as Appendix A.

IX. EVIDENCE APPENDIX

Appellant does not submit any additional evidence and, therefore, an Appendix B is hereby attached indicating “none.”

X. RELATED PROCEEDINGS APPENDIX

Appellant states that there are no relevant related proceedings and, an Appendix C is hereby attached indicating “none.”

XI. CONCLUSION

The Examiner has not shown in the cited prior art where one may find support for rejections of the pending claims on Appeal. There is simply no disclosure/support pointed out by the Examiner that is even relevant to the features positively recited in claims 1, 3-25, 35-71, 74, and 75. Appellant contends that the rejections are traversed and overcome, in light of the arguments presented above.

The allowance of all claims on Appeal is therefore respectfully requested.

Respectfully submitted,

PATENT INGENUITY, P.C.



Date: June 26, 2008

By _____
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Attachments:

- Appendix A: Claims on Appeal
- Appendix B: Evidence
- Appendix C: Related Proceedings